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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,074	05/06/2002	Malcolm A. Lecompte	216917US8PCT	8035

7590 11/26/2004

ASTRO VISION INTERNATIONAL, INC.
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EXAMINER

REKSTAD, ERICK J

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/019,074	Applicant(s) LECOMPTE ET AL.	
	Examiner Erick Rekstad	Art Unit 2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first action for application no. 10/019074 filed on May 6, 2002 in which claims 1-41 are presented for examination.

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claims 1-37 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1-37 of prior U.S. Patent No. 6,271,877. This is a double patenting rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,862,244 to Kleiner et al.

[claim 38]

Art Unit: 2613

As shown in Figure 2, Kleiner teaches an imaging satellite system comprising an image sensor(21) configured to produce data of a series of images of at least a portion of a surface of the earth (Col 2 Lines 7-44). The system further contains a transmitter (23) configured to transmit the data to a remote location (40 and 30 of Figure 1) so that said series of images may be viewed at said remote location (Col 2 Lines 60-63). As shown in Figure 4, the system further contains a traffic congestion detection mechanism for determining an amount of traffic present on a particular highway as observed from space and an indicator of said traffic being included in said traffic message (Col 3 Lines 45-53, Col 4 Line 18-Col 5 Line 21).

[claim 39]

Kleiner further teaches the system comprising a map display system on which congestion information is displayed regarding traffic congestion for particular roadways located on said map (Col 5 Lines 3-21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiner in view of US Patent 6,816,878 to Zimmers and 'Delivery of Weather Image Information to a Mobile Platform Using Satellite Broadcast' by Jordan et al.

[claims 40 and 41]

Kleiner teaches the use of real-time imaging from satellites as shown above for the rejection of claims 38 and 39 (Abstract). Kleiner further teaches the images can be temperature readings (Col 4 Lines 26-29). It would have been obvious to one of ordinary skill in the art at the time of the invention that temperature is related to weather (Official Notice). Kleiner further teaches the transmission of the data to a remote location for processing and then the processed data is sent to subscribers (Col 4 Line 17-Col 5 Line 21). Kleiner does not teach the distribution of weather information, transmitting to a maritime vessel, or the use of email. Zimmers teaches the transmission to a remote location and further the notifying subscribers of weather alerts using internet, telephone, or e-mail as required by claim 41 (Abstract, Col 4 Lines 36-46). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system of Kleiner with the e-mail system of Zimmers as e-mail is a well known method of contacting subscribers.

Zimmers does not specifically teach the subscriber being a maritime vessel. Jordan teaches a weather information receiver for use in aircrafts or marine environment where the information is not readily available in remote areas by other means (Abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the system of Kleiner and Zimmers with the receiver of Jordan in order to provide weather information to remote areas.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 4,364,085 to Dalke.

US Patent 5,248,979 to Orme et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 703-305-5543. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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